

National Indian Gaming Commission, Interior

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(ix) Adopts and implements an adequate system for investigation, licensing, and monitoring of all employees of the gaming activity;

(x) Maintains records on licensees and on persons denied licenses including persons otherwise prohibited from engaging in gaming activities within the tribe's jurisdiction;

(xi) Inspects and examines all premises where gaming is conducted;

(xii) Establishes standards for and issues vendor licenses or permits to persons or entities who deal with the gaming operation, such as manufacturers and suppliers of services, equipment and supplies;

(xiii) Establishes or approves, and requires the posting of, rules of games;

(xiv) Inspects games, tables, equipment, cards, and chips or tokens used in the gaming operation(s);

(xv) Establishes standards for technological aids and tests such for compliance with standards;

(xvi) Establishes or approves video surveillance standards;

(xvii) Adopts and implements an adequate system for the investigation of possible violations of the tribal gaming ordinance and regulations and takes appropriate enforcement actions;

(xviii) Determines that there are adequate dispute resolution procedures for gaming operation employees and customers, and ensures that such system is adequately implemented; and

(xix) Takes testimony and conducts hearings on regulatory matters, including matters related to the revocation of primary management officials and key employee licenses;

(4) Documentation of a sufficient source of permanent and stable funding for the independent tribal regulatory body which is allocated and appropriated by the tribal governing body;

(5) Adoption of a conflict of interest policy for the regulators/regulatory body and their staff;

(6) Evidence that the operation is financially stable;

(7) Adoption and implementation of a system for adequate prosecution of violations of the tribal gaming ordinance and regulations, which may include the existence of a tribal court system authorized to hear and decide gaming related cases;

(8) Evidence that the operation is being conducted in a safe manner, which may include, but not be limited to:

(i) The availability of medical, fire, and emergency services;

(ii) The existence of an evacuation plan; and

(iii) Proof of compliance with applicable building, health, and safety codes; and

(9) Evidence that reports are produced or received by the tribe, the tribal regulatory body, or the gaming operation based on an evaluation of the internal controls of the gaming operation during the three (3) year period immediately preceding the date of the petition.

(c) The burden of establishing self-regulation is upon the tribe filing the petition.

(d) During the review of the petition, the Commission shall have complete access to all areas of and all papers, books, and records of the tribal regulatory body, the gaming operation, and any other entity involved in the regulation or oversight of the gaming operation. The Commission shall be allowed to inspect and photocopy any relevant materials. The tribe shall take no action to prohibit the Commission from soliciting information from any current or former employees of the tribe, the tribal regulatory body, or the gaming operation. Failure to adhere to this paragraph may be grounds for denial of a petition for self-regulation.

§518.5 What process will the Commission use to review petitions?

(a) The Chairman shall appoint one Commissioner to administer the Office of Self Regulation. The Office of Self Regulation shall undertake an initial review of the petition to determine whether the tribe meets all of the eligibility criteria of §518.2. If the tribe fails to meet any of the eligibility criteria, the Office of Self Regulation shall deny the petition and so notify the tribe. If the tribe meets all of the eligibility criteria, the Office of Self Regulation shall review the petition and accompanying documents for completeness. If the Office of Self Regulation finds the petition incomplete, it shall immediately notify the tribe by

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letter, certified mail, return receipt requested, of any obvious deficiencies or significant omissions apparent in the petition and provide the tribe with an opportunity to submit additional information and/or clarification.

(b) The Office of Self Regulation shall notify a tribe, by letter, when it considers a petition to be complete.

(c) Upon receipt of a complete petition, the Office of Self Regulation shall conduct a review and investigation to determine whether the tribe meets the approval criteria under §518.4. During the course of this review, the Office of Self Regulation may request from the tribe any additional material it deems necessary to assess whether the tribe has met the requirements for self-regulation. The tribe shall provide all information requested by the Office of Self Regulation in a timely manner. The Office of Self Regulation may consider any evidence which may be submitted by interested or informed parties. The Office of Self Regulation shall make all such information on which it relies in making its determination available to the Tribe and shall afford the Tribe an opportunity to respond.

(d) The tribe shall post a notice, contemporaneous with the filing of the petition, advising the public that it has petitioned the Commission for a certificate of self regulation. Such notice shall be posted in conspicuous places in the gaming operation and the tribal government offices. Such notice shall remain posted until the Commission either issues a certificate or declines to do so. The tribe shall also publish such notice, once a week for four weeks, in a local newspaper with a broad based circulation. Both notices shall state that one of the criteria for the issuance of a certificate is that the tribe has a reputation for safe, fair, and honest operation of the gaming activity, and shall solicit comments in this regard. The notices shall instruct commentators to submit their comments directly to the Office of Self Regulation, shall provide the mailing address of the Commission and shall request that commentators include their name, address and day time telephone number.

(e) After making an initial determination on the petition, the Office of

Self Regulation shall issue a report of its findings to the tribe.

(1) If the Office of Self Regulation determines that the tribe has satisfied the criteria for a certificate of self regulation, it shall so indicate in its report and shall issue a certificate in accordance with 25 CFR 518.6.

(2) If the Office of Self Regulation's initial determination is that a tribe has not met the criteria for a certificate of self regulation, it shall so advise the tribe in its report and the tribe shall have 60 days from the date of service of the report to submit to the Office of Self Regulation a written response to the report. This response may include additional materials which:

(i) The tribe deems necessary to adequately respond to the findings; and

(ii) The tribe believes supports its petition.

(f) At the time of the submission of its response the tribe may request a hearing before the Office of Self Regulation. This request shall specify the issues to be addressed by the tribe at such hearing, and any proposed oral or written testimony the tribe wishes to present. The Office of Self Regulation may limit testimony.

(g) The Office of Self Regulation shall notify the tribe, within 10 days of receipt of such request, of the date and place of the hearing. The Office of Self Regulation shall also set forth the schedule for the conduct of the hearing, including the specification of all issues to be addressed at the hearing, the identification of any witnesses, the time allotted for testimony and oral argument, and the order of the presentation.

(h) Following review of the tribe's response and the conduct of the hearing, the Office of Self Regulation shall issue a decision on the petition. The decision shall set forth with particularity the findings with respect to the tribe's compliance with standards for self-regulation set forth in this part. If the Office of Self Regulation determines that a certificate will issue, it will do so in accordance with 25 CFR 518.6.

(i) The decision to deny a petition shall be appealable to the full Commission. Such appeal shall be received by the Commission within thirty (30) days

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of service of the decision and shall include a supplemental statement that states with particularity the relief desired and the grounds therefor. The full Commission shall decide the appeal based only on a review of the record before it. The decision on appeal shall require a majority vote of the Commissioners.

(j) The decision of the Commission to approve or deny a petition shall be a final agency action. A denial shall be appealable under 25 U.S.C. 2714, subject to the provisions of § 518.12. The Commission decision shall be effective when the time for the filing of a request for reconsideration pursuant to § 518.12 has expired and no request has been filed.

§ 518.6 When will a certificate of self-regulation become effective?

A certificate of self-regulation shall become effective on January 1 of the year following the year in which the Commission determines that a certificate will issue. Complete petitions are due no later than June 30. No petitions will be considered for the following January 1 effective date that have not been received by June 30 of the previous year. Petitions will be reviewed and investigated in chronological order based on the date of receipt of a complete petition. The Commission will announce its determinations on December 1 for all those reviews and investigations it completes.

§ 518.7 If a tribe holds a certificate of self-regulation, is it required to report information to the Commission to maintain its self-regulatory status?

Yes. Each tribe that holds a certificate of self-regulation shall be required to submit a self-regulation report annually to the Commission in order to maintain its self-regulatory status. Such report shall set forth information to establish that the tribe has continuously met the eligibility requirements of § 518.2 and the approval requirements of § 518.4 and shall include a report, with supporting documentation, including a sworn statement signed by an authorized tribal official, which explains how tribal net gaming revenues were used in accordance with the requirements of 25 U.S.C. 2710(b)(2)(B)''.

The annual report shall be filed with the Commission on April 15th of each year following the first year of self-regulation. Failure to file such report shall be grounds for the removal of a certificate under § 518.8.

§ 518.8 Does a tribe that holds a certificate of self-regulation have a continuing duty to advise the Commission of any information?

Yes. A tribe that holds a certificate of self-regulation has a continuing duty to advise immediately the Commission of any circumstances that may reasonably cause the Commission to review the tribe's certificate of self-regulation. Failure to do so is grounds for removal of a certificate of self-regulation. Such circumstances may include, but are not limited to: a change in management contractor; financial instability; or any other factors that are material to the decision to grant a certificate of self regulation.

§ 518.9 Are any of the investigative or enforcement powers of the Commission limited by the issuance of a certificate of self-regulation?

No. Subject to the provisions of 25 U.S.C. 2710(c)(5)(A) the Commission retains its investigative and enforcement powers over all class II gaming tribes notwithstanding the issuance of a certificate of self-regulation. The Commission shall retain its powers to investigate and bring enforcement actions for violations of the Indian Gaming Regulatory Act, accompanying regulations, and violations of tribal gaming ordinances.

§ 518.10 Under what circumstances may the Commission remove a certificate of self-regulation?

The Commission may, after an opportunity for a hearing, remove a certificate of self-regulation by a majority vote of its members if it determines that the tribe no longer meets the eligibility criteria of § 518.2, the approval criteria of § 518.4, the requirements of § 518.7 or the requirements of § 518.8. The Commission shall provide the tribe with prompt notice of the Commission's intent to remove a certificate of self-regulation under this Part. Such notice shall state the reasons for the Commission's action and